

Exhibit 3

Plaintiffs' Motion for Partial Summary Judgment
Case No. 2:18-cv-00381

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-----Original Message-----

From: Ben Hermans <legendconsulting@aim.com>
To: mcb <mcb@cloanto.net>
Sent: Mon, Dec 17, 2012 12:14 pm
Subject: Re: Manomio

Hi Michael,

It may be the after-effects of the pneumonia I hopefully left behind me but what exactly is the question here?

It is correct (as I have stated before) that Hyperion did license the Kickstart to Manomio but without ever transferring anything in terms of source-code or even object-code.

It is also my understanding that none of the parties involved i.e. Amiga Inc., Cloanto or Hyperion have any exclusive rights to Kickstarts when they are used for emulation purposes where the UI is not visible to the user. (If the UI is visible to the user, Amiga Inc. on its own does not have any rights).

Note that to this day even the latest version of AmigaOS 4.x contains code which is unaltered and goes back to the content of the first Commodore Kickstarts.

It is therefore totally artificial to try and draw some kind of rigid line somewhere between the different versions of the operating system to carve out some kind of exclusivity for this party or another.

It is also our view that some actions/licenses granted by Amiga Inc. post-settlement infringe upon the exclusive rights granted to Hyperion in the settlement agreement.

Following our protest to Mr. Shatan cosmetic changes were made but the issues remain.

It is also my understanding that Cloanto entered into some kind of licensing agreement with Amiga Inc. for emulation on RIM devices.

On the basis of that I conclude that both Cloanto and Hyperion are doing whatever they can to recuperate the high cost of litigation in whatever way possible.

Best regards,

Ben Hermans
legendconsulting@aim.com

-----Original Message-----

From: M. C. Battilana <mcb@cloanto.net>
To: 'Ben Hermans' <legendconsulting@aim.com>
Sent: Sun, Dec 16, 2012 4:19 am
Subject: RE: Manomio

Hello Ben,

It's almost a year since we last met, and these year counts usually make me reflect not just on all things retro, but also on wisdom and more in life. For one, I like to believe that at my age I am more peaceful and less inclined to look for and cause trouble...

A few months ago I had told you that I was going to contact Manomio via Gordon, because in spite of repeat communication attempts they were not responding as we had agreed. So we did that, with the goal to sort out things that had been stuck, and under my instructions that clearly said "Friendly" in the subject. Now however a few months have passed, and it looks like we are back at step one.

I think it all boils down to a question I asked you last December, i.e. about Hyperion's interpretation of pre-3.1 rights. At the time you said you would look into it. I then asked you again in my February 18 and March 20 emails. I preferred to be respectful rather than insistent, but then the issue also came up with Manomio.

I met with Brian Lyscarz and had some Skype chats with him, and he had repeatedly promised to get back. As more time passed, I asked him if it was OK to put him in touch with Gordon, noting that things would then become a bit more formal.

Only after all of the above steps did Gordon send the friendly letter to Manomio. Now, it seems that after a few months the only thing they are able to hint at to solve this is to contact you directly. In October Stuart Carnie wrote that I "can" contact you directly, and yesterday Stuart Carnie wrote "We certainly don't see any issue with you speaking directly with Ben Hermans directly to work through this issue."

I again did not want to disturb you, but in spite of their wording being "can" and "don't see any issue", since they are not answering otherwise I guess they are actually asking to contact you?

It looks like age has not given me the gift of brevity yet. I hope it gets better, but I would also be very grateful if we could sort this one out.

Regards,

Michael

From: M. C. Battilana

Sent: Thursday, September 20, 2012 22:32

To: Ben Hermans

Subject: RE: AmigaOS ROMs for Cinemaware

Hello Ben,

Sorry for the late reply. I didn't really have much to add and I didn't want to make it too much of an open debate. The prevailing aspect, as you too noted, was a difficulty in engaging in constructive communications with Manomio. Brian did not "claim" that he had no license for all the various items he published, but he also never confirmed he had one, while boasting he wasn't covered for some items and again expressing interest in obtaining a license from us.

To update you on something more recent, I allowed Amiga, Inc. to publish some "Caveman" titles for RIM/Blackberry devices for some time. This was required because while specifically allowed under your 2009 settlement agreement, under our 2011 coexistence agreement they were not allowed to engage in emulation. In hindsight there was something unfinished in our 2011 agreements, and Bill McEwen signed that away in return for this limited grant. In essence, Amiga now also lost the possibility of going after copyright infringers. They had recently approached a number of companies in a way that had created some confusion, and that should now not happen again.

I will be in Brussels on the 28-30 with my girlfriend, Sara, as her parents never took a plane and she wanted to sponsor this for their wedding anniversary. Needless to say, if I had to choose between one more beer with my in-laws and saying hello to you again, I would be delighted to go for the latter!

Regards,

Michael

From: Ben Hermans [mailto:legendconsulting@aim.com]

Sent: Tuesday, August 14, 2012 14:04

To: M. C. Battilana; steven@solie.ca

Cc: degrootet@base.be

Subject: Re: AmigaOS ROMs for Cinemaware

Hi Michael,

I'm very surprised that Brian claimed that he had no license.

We did sign a license agreement with Manomio only a few weeks after the final settlement agreement with Amiga, at the time they were still working hard on getting their C64 emulator through the AppStore.

We did not hear anything from them anymore i.e. it appeared that there was no progress or releases, they still had the problem with the Appstore (emulated code).

I did meet Brian personally some 18-24 months later in Brussels (where they have some kind of office in an "incubator" with at least 2 other people as "staff").

Also, please note that Lars contacted me on July 26 but because of some personal issues (death in the family etc.), I did not get around to replying to him immediately.

Note that so far we have not seen a penny from them in the form of license payments (I mean Manomio).

I had basically written the whole thing off and forgotten about it.

Best regards,

Ben Hermans
legendconsulting@aim.com

-----Original Message-----

From: M. C. Battilana <mcb@cloanto.net>
To: Steven Solie <steven@solie.ca>
Cc: Ben Hermans <legendconsulting@aim.com>; Timothy De Groot <degrootet@base.be>
Sent: Mon, Aug 13, 2012 6:51 pm
Subject: RE: AmigaOS ROMs for Cinemaware

Hello Steven,

Thanks for sharing. He basically asked the same questions to me a few days ago,

with similar answers. Plus, they asked about some Windows software, and we were

talking about a custom version of Amiga Forever.

| So this mail is just between me and you now.

|
| There is an underlying unresolved issue with Manomio, which I had briefly
| discussed with Ben. Since our talks with Manomio stalled a few months ago, | I
| had put that in the hands of Gordon, our attorney, who is becoming increasingly
| familiar with Amiga matters. Brian Lyscarz kept promising me some type of
| outline or other proposal, and since he disappeared and never replied to my
| recent emails I wanted to signal that he can't avoid dealing with the matter
| indefinitely. Could this be related to Cinemaware now wanting to go on on their
| own?

|
| As Mr. Lyscarz admitted, they have neither a license to the C64 ROMs nor to the
| Amiga 1.3 ROMs. Yet they have been using both in their iOS apps. As for the
| Amiga 3.1 ROMs, which they used as well, I believe, but I could be wrong, that
| they either never properly executed an agreement with Hyperion, or that they
| failed to renew it.

|
| My feeling is that Manomio had so many unlicensed things (I don't think they
| ever paid the Commodore companies for the trademark use either, and some of
| their titles sold in iTunes contain no game code inside, but just download URLs
| to preservation sites...) that as the claims come out they may try to let the
| house collapse, and claim it was all in the LLC.

|
| I will be in Brussels on September 28-30, if Ben or Timothy would like to meet.

|
| Regards,

|
| Mike

|
| > -----Original Message-----

> From: smsolie@gmail.com [mailto:smsolie@gmail.com] On Behalf Of Steven
> Solie
> Sent: Monday, August 13, 2012 16:31
> To: LFB
> Cc: M. C. Battilana; Ben Hermans; Timothy De Groot
> Subject: AmigaOS ROMs for Cinemaware
>
> On 13 August 2012 01:16, Lars Fuhrken-Batista <lfb@cinemaware.com> wrote:
>> Otherwise, my question about Hyperion is regarding another issue altogether
>>- I have tried to contact them to no avail. Here's the drag:
>>
>>- as you know, we released DotC Amiga emulatd on iOS last year. This was
>> done in cooperation with manomio using the UAE4ALL emulator, used under
> GPL.
>> Manomio licensed the Amiga ROM files (and trademarked ticker symbol) from
>> them in order to have legal clearance
>
> I did not realize Manomio licensed the ROMs from Hyperion. I'm sure
> Ben Hermans can verify this.
>
>>- as you might have seen, we announced The King of Chicago for iOS as well,
>> which we will be relasing directly. We now also need legal clearance to use
>> the Amiga ROM files and trademarks
>
> Today you basically have 3 legal sources for ROMs: Amiga Inc., Cloanto
> and Hyperion Entertainment. Personally, I don't think Amiga Inc. has a
> leg to stand on regarding the Amiga emulation market--keep reading.
>
>>- here is where it gets confusing: Bill McEwen, from Amiga, Inc., wrote us
>> and claims THEY are the ones who own these copyrights and THEY are the
> ones

| > > we have to license this stuff from.
| >
| > Indeed Amiga Inc. can claim to be the current copyright owner.
| > However, Amiga Inc. no longer holds the exclusive rights to license
| > their own property. From my understanding, Amiga Inc. have independent
| > agreements established with both Cloanto and Hyperion Entertainment
| > which preclude this.
| >
| > > - at the same time, Cloanto (Amiga Forever) is making similar claims, and
| > > saying that Amiga, Inc. cannot license anything related to emulation due to
| > > some old lawsuit (the story is so convoluted that I can't understand it)
| > > - manomio licensed the stuff from Hyperion, and says they avoided woring
| > > with Amiga, Inc or Cloanto
| > >
| > > See why we are confused? Seems like a messy situation.
| >
| > I am going to try and clear this up but I am not a lawyer nor a
| > principal in any of these companies. To that end, I have CC'd Michael
| > Battilana (Cloanto) and Ben Hermans + Timothy De Groote (Hyperion) to
| > help clarify anything I may get wrong.
| >
| > 1. Amiga Inc. made a deal with Cloanto to distribute and sub-license
| > the original 68k ROMs. You should read Cloanto's story at
| > | <http://www.amigaforever.com/kb/13-122>. What I do know is that Amiga
| > Inc's new products have so far failed in the marketplace. Amiga Inc.
| > has been for sale for some time and they are a tad desperate to
| > generate income. It is no surprise to me that you are getting
| > different stories from each side. However, I seriously doubt Mr.
| > Battilana is misinterpreting anything. Cloanto has been in the Amiga
| > emulation business a very long time.
| >

| > 2. Hyperion Entertainment recently settled their own lawsuit(s) with
| > Amiga Inc. The dispute was basically for control of AmigaOS including
| > some trademark rights. It is my understanding the settlement agreement
| > grants Hyperion certain rights including the right to sub-license the
| > 68k ROMs. As such, the AmigaOS team have been shipping the AmigaOS 68k
| > ROMs along with AmigaOS 4.1. There is also a clause or two in there
| > which makes it impossible for Amiga Inc. to ship competing Amiga
| > branded products. Ben Hermans happens to be the lawyer who worked this
| > case for Hyperion.
| >
| > 3. Cloanto and Hyperion Entertainment are friendly towards each other.
| > Neither are that friendly towards Amiga Inc. given the legal battles.
| >
| > > Your help in clearing this up and helping us go on the right path is greatly
| > appreciated.
| >
| > Personally, I think you should continue to deal with Cloanto and/or
| > Hyperion Entertainment. As I mentioned, these companies have exclusive
| > rights to the original ROMs which are exactly what you are looking
| > for. Although Amiga Inc. can claim to be copyright owner, they have
| > effectively licensed themselves out of the Amiga emulation business.
| >
| > I hope this helps!
| >
| > Regards,
| > Steven Solie